



0000077493

T ORIGINAL

47

ARIZONA CORPORATION COMMISSION RECEIVED
DOCKET CONTROL CENTER

CASE/COMPANY NAME:

QWEST COMMUNICATIONS

D/B/A: _____

DOCKET NO. RT-000007-99-0034

2001 AUG -6 P 4: 31
AZ CORP COMMISSION
DOCUMENT CONTROL

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT Please mark the item that describes the nature of the case/filing:

01 NEW APPLICATIONS

- ☐ NEW CC&N
☐ RATES
☐ INTERIM RATES
☐ CANCELANON OF CC&N
☐ DELETION OF CC&N TERRITORY
☐ EXTENSION OF CC&N (TERRITORY)
☐ TARIFF-NEW (NEXT OPEN MEETING)
☐ REQUEST FOR ARBITRATION
 (Telecommunication Act)
☐ FULLY OR PARTIALLY ARBITRATED
 INTERCONNECTION AGREEMENT
 (Telecom. Act)
☐ VOLUNTARY INTERCONNECTION
 AGREEMENT (Telecom. Act)

02 REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS

☐ APPLICATION
☐ COMPANY _____
☐ DOCKET NO. _____

MISCELLANEOUS FILINGS

- ☐ 04 AFFIDAVIT
☐ 12 EXCEPTION
☐ 18 REQUEST FOR INTERVENTION
☐ 48 REQUEST FOR HEARING
☐ 24 OPPOSITION
☐ 50 COMPLIANCE ITEM FOR APPROVAL

- ☐ MAIN EXTENSION
☐ CONTRACT/AGREEMENTS
☐ COMPLAINT (Formal)
☐ RULE VARIANCE/WAIVER REQUEST
☐ SITING COMMITTEE CASE
☐ SMALL WATER COMPANY-SURCHARGE (Senate Bill 1252)
☐ NOTICE OF OPPORTUNITY
☐ SALE OF ASSETS & TRANSFER OF OWNERSHIP
☐ SALE OF ASSETS & CANCELLATION OF CC&N
☐ FUEL ADJUSTER/PGA
☐ MERGER
☐ FINANCING
☐ MISCELLANEOUS
 Specify _____

Arizona Corporation Commission

DOCKETED

AUG 06 2001

TARIFF

- ☐ PROMOTIONAL
☐ DECISION NO. _____
☐ DOCKET NO. _____
☐ COMPLIANCE
☐ DECISION NO. _____
☐ DOCKET NO. _____

DOCKETED BY

Nuc

- ☐ 29 STIPULATION
☐ 38 NOTICE OF INTENT
 (Only notification of future action/no action necessary)
☐ 43 PETITION
☐ 46 NOTICE OF LIMITED APPEARANCE
☒ 39 OTHER

Specify

Qwest's 2nd Set of Written Comments
 on Draft Slamming and Churning Rules

Dated: August 6, 2001

Timothy Berg/QWEST Corporation.

Print Name of Applicant/Company/Contact Person

ORIGINAL

RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2001 AUG -6 P 4:31

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION
DOCUMENT CONTROL

AUG 06 2001

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

DOCKETED BY

Mac

IN THE MATTER OF RULES TO
ADDRESS SLAMMING AND OTHER
DECEPTIVE PRACTICES.

Docket No. RT-00000J-99-0034

QWEST CORPORATION'S SECOND SET
OF WRITTEN COMMENTS ON DRAFT
SLAMMING AND CRAMMING RULES

On July 2, 2001, the Utilities Division of the Arizona Corporation Commission ("Commission") issued a revised draft of the proposed slamming and cramming rules. Staff requested that all interested parties provide written comments on the proposed rules on or before August 6, 2001. Accordingly, Qwest Corporation ("Qwest") submits the following for consideration. Qwest has attached copies of the proposed rules incorporating the substantive comments set forth below as well as minor grammatical and non-contextual revisions. Exhibit A contains the proposed slamming rules (Title 19). Exhibit B contains the proposed cramming rules (Title 20).¹

PROPOSED SLAMMING RULES

A.A.C. R14-2-1901. Definitions

Subsection B: As noted in Qwest's first set of comments, the FCC employs the term "subscriber" rather than "customer" in

¹ The exhibits contain both red-lined and non-red-lined versions of the rules.

1 its rules, defining a "subscriber" as follows.

2

3 The term subscriber is any one of the
4 following:

5 (1) The party identified in the account
6 records of a common carrier as responsible
7 for payment of the telephone bill;

8 (2) Any adult person authorized by such
9 party to change telecommunications services
10 or to charge services to the account; or

11 (3) Any person contractually or
12 otherwise lawfully authorized to represent
13 such party.

14

15 47 C.F.R. § 64.1100(h). Explaining the rationale behind its
16 definition of the term "subscriber", the FCC stated:

17

18 [T]his definition [of subscriber] will allow
19 customers of record to authorize additional
20 persons to make telecommunications decisions,
21 while protecting consumers by giving the
22 customers of record control over who is
23 authorized to make such decisions on their
24 behalf. In addition, this definition will
25 provide carriers with the flexibility to
26 establish authorization procedures that are
appropriate to their own and their customers'
needs, consistent with the framework of our
rules.

18 In the Matter of Implementation of the Subscriber Carrier
19 Selection Changes Provisions of the Telecommunications Act of
20 1996, etc., FCC 00-255, Third Report and Order and Second Order
21 on Reconsideration, ¶ 48 (rel. August 15, 2000).

22 In its first set of comments, Qwest suggested the Commission
23 replace its proposed definition of "customer" with the FCC's
24 definition of "subscriber." WorldCom recommended the same. See
25 Comments of WorldCom, Inc. at 5. Use of the term "subscriber" in
26 this manner is common industry practice and familiar to

1 telecommunications consumers. Qwest again urges the Commission
2 to adopt this recommendation.

3 Subsection C: The term "Customer Account Freeze" should be
4 replaced with either "Preferred Carrier Freeze," the term
5 employed by the FCC or, in the alternative, the term "Subscriber
6 Freeze." After all, a freeze does not affect the entirety of a
7 subscriber's account. Rather, as described in Rule 14-2-1909(A),
8 a "freeze" simply prevents a change in a subscriber's
9 telecommunications company selection. Thus, the term "Customer
10 Account Freeze" is a misnomer. "Preferred Carrier Freeze" more
11 accurately describes what is frozen.

12 In addition, Qwest suggests defining "Preferred Carrier
13 Freeze" as "an authorization from a subscriber to impose a stay
14 on any change in a telecommunications company selection."
15 Although Qwest supports the Commission's decision to permit
16 authorization by the means enumerated, i.e. written, electronic,
17 or third party verification, it is unnecessary to provide such
18 detail in a definitional section. The authorization process is
19 set forth in more detail in Rule 14-2-1909.

20 Subsection E: Qwest recommends eliminating "letter of
21 agency" ("LOA") from this definitional provision. Consistent
22 with this recommendation, the FCC does not define LOA. See 47
23 C.F.R. § 64.1100. The Commission's definition of LOA, as
24 currently drafted, may cause confusion, as it does not fully
25 explain that an LOA is a written authorization by a subscriber
26 empowering another person or entity to act on the subscriber's

1 behalf. A written document directly from a subscriber to a local
2 exchange carrier requesting that a change be made in the
3 subscriber's long distance carrier would be a "written
4 authorization" but not an LOA.

5 A.A.C. R14-2-1903. Application

6 This rule refers the reader to "the requirements in 47
7 C.F.R. 64.1100 and 47 C.F.R. 64.1150." It is unclear why the
8 Commission has chosen to focus in on these two FCC rules, rather
9 than referencing the entire sequence of rules, i.e. 47 C.F.R.
10 § 64.1100 et seq. Many of the FCC rules include "requirements".

11 In addition, the two sentences included in this rule should
12 be combined and simplified. There is no need to define
13 "telecommunications company" here, as it was previously defined
14 in Rule 14-2-1901(G).

15 Moreover, the reference to "local number portability" should
16 be removed. Local number portability does not affect how a long
17 distance carrier is chosen in the same way that "equal access"
18 does. Currently, the wireless carrier chooses the long distance
19 provider and makes transport by the carrier available as part of
20 the wireless carrier's service package. If wireless carriers
21 ever were to become subject to equal access obligations, the
22 matter of the application of slamming rules to them might be
23 revisited for relevancy because an "equal access" obligation
24 would shift the choice of long distance carrier from the wireless
25 carrier to the individual subscriber. Implementation of number
26 portability in November of 2002 has no relevance to the issue of

1 choice of long distance carrier in a wireless environment. While
2 improper number porting could conceivably result in a "slam" (a
3 clerk might incorrectly type a number such that a customer that
4 was wanting to port from wireless carrier to wireline carrier A
5 ended up with wireline carrier B), unless and until there is
6 evidence of significant "slamming" by wireless carriers, the
7 Commission should not impose rules on that industry.

8 Qwest suggests the rule be re-written as follows. "These
9 rules apply to all telecommunications companies, except providers
10 of wireless, cellular, personal communications services or
11 commercial radio services so long as such providers are not
12 required to provide equal access to common carriers for the
13 provision of telephone toll services." This language is
14 consistent with the FCC rule. See 47 C.F.R. § 64.1120(a)(3)
15 ("Commercial mobile radio services (CMRS) providers shall be
16 excluded from the verification requirements of this part as long
17 as they are not required to provide equal access to common
18 carriers for the provision of telephone toll services, in
19 accordance with 47 U.S.C. § 332(c)(8).")

20
21 **A.A.C. R14-2-1905. Verification of Orders**
22 **For Telecommunications Service.**

23 Subsections A(2) & B(6): Subsection A provides that a
24 change of telecommunications company may be confirmed by: (1)
25 written authorization, (2) Internet enabled authorization with
26 electronic signature, or (3) third party verification.
Subsection B defines "written authorization." It is redundant

1 for Subsection B to define "written authorization" to include an
2 Internet letter of agency, when Internet enabled authorization
3 has already been specified as a separate means of confirmation in
4 Subsection A(2). For this reason, Qwest recommends the deletion
5 of Subsection B(6).

6 Subsection F(5)(d): As drafted, this Subsection is
7 consistent with the FCC rule that requires third party
8 verification methods to elicit "the names of the carriers
9 affected by the change." 47 C.F.R. § 64.1120(c)(3)(iii). The
10 Commission should be aware that AT&T Corporation, in a
11 Reconsideration Petition, urged the FCC to modify this rule and
12 require only the identification of the carrier to whose service
13 the change is being authorized, not the identification of the
14 carrier being displaced. See In the Matter of Implementation of
15 the Subscriber Carrier Selection Changes Provisions of the
16 Telecommunications Act of 1996, CC Docket No. 94-129, AT&T
17 Reconsideration Petition at 4-7 (April 2, 2001).

18 AT&T correctly pointed out that the Commission imposed the
19 obligation believing, incorrectly, that it mirrored an obligation
20 already extant with respect to LOAs. Since the obligation did
21 not already exist, AT&T argued that requiring submitting carriers
22 to compile and provide the identity of the subscriber's current
23 carrier would be unnecessary, "seriously disruptive," and
24 "entirely superfluous." Id. at 5. Other parties to the FCC
25 docket offered differing opinions as to whether the FCC rule
26 actually requires identification of the displaced carrier, but

1 agreed that the information is not material to the accurate
2 processing of a subscriber's choice. See In the Matter of
3 Implementation of the Subscriber Carrier Selection Changes
4 Provisions of the Telecommunications Act of 1996, CC Docket No.
5 94-129, Comments of Sprint Corporation at 3-4 (April 30, 2001);
6 WorldCom Comments on AT&T's Petition For Reconsideration at 3-6
7 (April 30, 2001). The Commission may want to consider these
8 views before finalizing its rules and consider deleting this
9 requirement.

10 **A.A.C. R14-2-1906. Notice of Change**

11 Qwest objects to the requirement that the address of the
12 telecommunications company be provided. The FCC considered an
13 address requirement in drafting its rules and purposefully
14 rejected it, explaining its rationale as follows:

15 We decline to require carriers to provide a
16 business address on each telephone bill for
17 the receipt of customer inquiries and
18 complaints. As several commenters have
19 noted, most customers call when they have
20 questions - they do not write. Accordingly,
21 the inclusion of a business address will not
22 significantly enhance consumers' ability to
23 contact the billing entity. We do require,
24 however, that each carrier make its business
25 address available upon request to consumers
26 through its toll-free number, for those
consumers who wish to follow up their
complaint or inquiry in writing.

24 See Truth in Billing and Billing Format, CC Docket No. 98-170,
25 FCC 99-72, Further Notice of Proposed Rulemaking, ¶ 65 (rel. May
26 11, 1999). Accordingly, the FCC required only the inclusion of a

1 toll-free number. Upon reconsideration, the FCC revised the rule
2 to incorporate a suggestion made by WorldCom that carriers be
3 permitted to provide means other than toll-free numbers, i.e. an
4 e-mail or web site address "where the customer does not receive a
5 paper copy of his or her telephone bill, but instead accesses
6 that bill only by e-mail or internet." See Truth-in-Billing and
7 Billing Format, CC Docket No. 98-170, FCC 00-111, Order on
8 Reconsideration, ¶ 11 (rel. March 29, 2000). The rule as adopted
9 provides as follows.

10 Common carriers must prominently display on
11 each bill a toll-free number or numbers by
12 which subscribers may inquire or dispute any
13 charges on the bill. . . . Where the
14 subscriber does not receive a paper copy of
15 his or her telephone bill, but instead
16 accesses that bill only by e-mail or
internet, the carrier may comply with this
requirement by providing on the bill an e-
mail or web site address. Each carrier must
make a business address available upon
request from a consumer.

17 47 C.F.R. § 64.2401(d).

18 As noted in Qwest's first set of comments, Qwest currently
19 prints the toll-free number or numbers by which subscribers may
20 inquire or dispute any charges on the bill on both the summary
21 and carrier bill pages. This permits the subscriber to contact
22 the appropriate entity directly for resolution of disputes. To
23 require Qwest to also provide the address of each entity would be
24 burdensome and unnecessarily costly. Accordingly, the Commission
25 should follow the FCC's lead and require only the inclusion of a
26 toll-free number.

1 A.A.C. R14-2-1907. Unauthorized Changes

2 Subsection B: Qwest urges the Commission to clarify that
3 although Rule 14-2-1907 places responsibility in the hands of the
4 unauthorized telecommunications company to return the subscriber
5 to the original telecommunications company, this rule does not
6 interfere with the rights granted to a billing agent by a
7 contract entered into with the unauthorized telecommunications
8 company.

9 In addition, Qwest recommends eliminating the five-business
10 day requirement from Rule 14-2-1907(B). In many instances, this
11 requirement will prove unrealistic. On its own, the requirement
12 that the telecommunications company act "as promptly as
13 reasonable business practices will permit," provides flexibility
14 and acknowledges the reality that what constitutes a reasonable
15 response time will vary according to the circumstances.

16 Subsection D: As noted in Qwest's first set of comments,
17 the Commission should not inject itself into credit reporting
18 relationships. Credit reporting agencies are covered by federal
19 law, and to inject State Commission rules into a federal scheme
20 of regulation will be confusing at best, and may lead to
21 conflicts between the Commission and the federal agencies charged
22 with administration of the Fair Credit Reporting Act. Moreover,
23 there is no evidence or claim in any record or material reviewed
24 by Qwest that implies or suggests that reports to credit agencies
25 of unauthorized charges, by slamming carriers, is a problem, or
26 something that the Commission should address.

1 A.A.C. R14-2-1908. Notice of Customer Rights
2 (Re-named in Exhibit A. Notice of Subscriber Rights)

3 Subsection B(9): This subsection requires a subscriber,
4 who has experienced an unauthorized change, to contact the
5 Commission, whether or not the problem has been resolved
6 satisfactorily between the subscriber and the provider. Qwest
7 recommends that only situations that are not resolved
8 satisfactorily between the subscriber and the provider should be
9 reported to the Commission. It is of no benefit to the
10 subscriber to report a matter to the Commission if it has already
11 been resolved to the subscriber's satisfaction. Moreover, such
12 reporting could unduly stress Commission and company resources.

13 Subsection D: By adding language to Subsection D stating
14 that it applies only to "each telecommunications company that
15 publishes a telephone directory" the Commission has limited
16 application of this rule to the incumbent local exchange carrier
17 ("ILEC"). If the Commission wishes to require publication in a
18 directory, the obligation should be imposed on all
19 telecommunications companies, not just on the company that
20 physically prints the directory. Other telecommunications
21 companies currently publish information in Qwest's directory and
22 there is no reason they should not be compelled to fulfill the
23 requirements of Rule 14-2-1908 in a like manner. Thus, the rule
24 should be re-written to either: (1) require each
25 telecommunications company to separately publish notice in a
26 directory; or (2) require each telecommunications company to bear

1 its share of the cost of a generic notice placed on behalf of all
2 companies. Otherwise, the ILEC is penalized for publishing a
3 directory.

4 A.A.C. R14-2-1909. Customer Account Freeze
5 (Re-named in Exhibit A. Preferred Carrier Freeze)

6 Subsections B & D: The analogous FCC rules require all
7 local exchange carriers who offer a preferred carrier freeze to
8 do so on a nondiscriminatory basis. See 47 C.F.R. § 64.1190(b).
9 In other words, the local exchange carrier must offer a freeze to
10 all subscribers regardless of the subscriber's carrier
11 selections. See id. While requiring the local exchange carrier
12 to offer a freeze to all subscribers, the rules clearly permit
13 the carrier to "solicit" preferred carrier freezes. 47 C.F.R. §
14 64.1190(c), (d).

15 When "offering" a freeze, carriers are required to act
16 without discrimination. When "soliciting" a freeze, carriers are
17 required to explain "in clear and neutral language" what a freeze
18 is and what services may be subject to the freeze. See id.
19 Unlike the Commission's proposed rule, once the clear and neutral
20 explanation is made, the FCC does not prohibit the carrier from
21 marketing a freeze. See id. Indeed, the prohibition against
22 marketing imposed by Rule 14-2-1909 raises First Amendment
23 concerns. A carrier must be permitted to market its services, so
24 long as the information provided to the subscriber is accurate
25 and truthful.

26 Qwest prefers the language employed in the FCC rules that

1 permits an ILEC to "solicit" freezes. A carrier should be able
2 to combine marketing with the freeze communication.

3 Subsections E & F: Qwest recommends a return to the
4 language employed in the Commission's first draft of the proposed
5 rules. As originally drafted, this rule provided that "[a] local
6 exchange company shall not implement a freeze unless a customer's
7 request is verified." In addition, under the rule as originally
8 drafted, a subscriber could lift a freeze by "(1) Submitting
9 written authorization stating the customer's intent to lift the
10 freeze; [or] (2) Verbal authorization with conformation [sic] on
11 verification data." In short, the original rule did not require
12 third party verification. This is consistent with the FCC rule,
13 which although requiring the confirmation of "appropriate
14 verification data (e.g., the subscriber's date of birth or social
15 security number)", does not require third party verification. 47
16 C.F.R. § 64.1190(e)(2). In fact, the requirement that a
17 telecommunications company obtain third party verification before
18 lifting a freeze could impede competition.

19 In addition, Qwest would like to clarify that the specified
20 "written, electronic or verbal authorization" must come directly
21 from the subscriber him or herself. Another carrier cannot
22 simply forward to the local exchange carrier an electronic
23 message from the subscriber requesting that a freeze be lifted.
24 Such a process would lend itself to security problems.

25
26

1 A.A.C. R14-2-1910. Complaint process
2 (Re-named in Exhibit A. Informal complaint process)

3 As noted above in response to Rule 14-2-1908, a subscriber
4 who has experienced an unauthorized charge should be encouraged
5 to contact the carrier directly before filing a complaint with
6 the Commission. In most cases, the problem can be resolved
7 between the subscriber and the provider without having to involve
8 the Commission. The subscriber should be encouraged to contact
9 the Commission only if the situation has not been satisfactorily
10 resolved between the subscriber and the provider.

11 In addition, Qwest suggests significant revisions to this
12 rule as reflected in Exhibit A. The rule as currently drafted
13 places the burden of proof on the responding company and
14 establishes a presumption against the company in favor of the
15 subscriber. In so doing, the rule raises due process concerns.

16 The subscriber should be required to make a prima facie
17 showing that slamming has in fact occurred, including, at the
18 very least, providing the approximate date of the alleged
19 unauthorized change. Without this basic information, a
20 responding company is hard pressed to defend itself.

21 In addition, the provision in the rule stating that if a
22 company does not provide supporting documentation within twenty
23 business days "a valid presumption will exist that an
24 unauthorized change occurred and Staff will make a finding that
25 an unauthorized change did occur" should be removed. This
26 language turns an informal complaint process into a binding

1 decision, again raising due process concerns. Accordingly, Qwest
2 recommends eliminating this presumption.

3
4 A.A.C. R14-2-1911. Compliance and enforcement
5 (Re-named in Exhibit A. Coordination of enforcement)

6 This rule essentially restates the penalty statutes
7 contained in the Arizona Revised Statutes. See A.R.S. §§ 44-
8 1572; 44-1573. Therefore, the rule is redundant and should be
9 eliminated.

10 In addition, as noted in Qwest's first set of comments,
11 Qwest recommends that the Commission consider following the
12 approach taken by the FCC. "[W]e will take into consideration in
13 any enforcement action the willfulness of the carriers involved."
14 In the Matter of Implementation of the Subscriber Carrier
15 Selection Changes Provisions of the Telecommunications Act of
16 1996, etc., CC Docket No. 94-129, Second Report and Order and
17 Further Notice of Proposed Rulemaking, FCC 98-334 (released
18 December 23, 1998). The Commission could assign different levels
19 of fines and penalties according to the level of carrier
20 culpability.

21 PROPOSED CRAMMING RULES

22 As recommended in Qwest's first set of comments, the
23 proposed Article 20 should be eliminated in its entirety. The
24 definition of "cramming" set forth in Rule 14-2-2001 suggests the
25 concept involves charges levied by a telecommunications company.
26 This is not the case. In fact, cramming generally refers to

1 charges imposed by an "ancillary service provider" for goods or
2 services that are unrelated to the subscriber's telephone
3 service. See A.R.S. §§ 44-1571, 44-1574.

4 To the extent that Article 20 is intended to address charges
5 imposed by ancillary service providers, the Commission lacks
6 authority to issue these rules as it has no jurisdiction over
7 these providers. To the extent that Article 20 is intended to
8 address charges imposed by regulated telecommunications
9 companies, the Article is redundant. Commission rules and
10 tariffs governing billing disputes and consumer complaints are
11 already in place. See Arizona Administrative Code R14-2-501 et
12 seq. Furthermore, Regulated telecommunications companies cannot
13 be responsible for the actions of non-regulated ancillary service
14 providers. There is little the regulated company can do other
15 than to refer the subscriber to the proper entity and recourse
16 the disputed charges.

17 Moreover, the proposed rules suggest a detailed management
18 of subscriber contact that is simply not reasonable or
19 appropriate for Commission rules. The rules overlook the fact
20 that not all subscriber contacts are initiated by an inbound,
21 telephone contact. Customers regularly go on-line, some respond
22 to outbound marketing, and some respond to door-to-door
23 marketing. The proposed rules seem to ignore all three of these
24 possible subscriber contacts. Moreover, they do not take into
25 account the use of so-called pay per use services such as Call
26 Trace or the ability of a subscriber to use the dial around toll

1 services (10XXX) of many providers.

2 As noted in Qwest's first set of comments, when a subscriber
3 orders service or adds a feature to his or her existing service,
4 the subscriber reviews the order with a representative, the
5 relevant terms are discussed, the due date (installation date)
6 noted, and the order placed. When the subscriber receives the
7 bill, the newly ordered service and the charge are itemized on
8 that bill. If an error has been made, the subscriber contacts
9 the provider and the error is corrected. That order process has
10 now been expanded to include customers' on-line orders as well as
11 their response to outbound marketing. Qwest believes that the
12 rules ought to facilitate all of these transactions, not stand as
13 a barrier to an effective interexchange with the subscriber. To
14 the extent that the rules avoid detailed minutiae, Qwest believes
15 they will better facilitate such subscriber contact.

16 When a subscriber complains to the Commission today about an
17 unauthorized service or product being billed to the subscriber,
18 the Commission does not advise the complaining party that no
19 Commission rule prohibits such conduct. Neither the Commission
20 nor the telecommunications companies operating in Arizona have
21 any doubt that unreasonable and unfair conduct is unacceptable.
22 With the detail in Article 20, the focus may change from the
23 reasonableness or fairness of particular conduct, to technical
24 compliance with the nuance of particular wording. It is not
25 clear to Qwest that such a change is in the best interest of the
26 consumer.

1 Again, Qwest would urge that the proposed Article 20 should
2 be completely eliminated. There is no need for the Article, and
3 the evil at which it is directed is far better covered by the
4 existing rules of the Commission. The foregoing notwithstanding,
5 in the event the Commission decides to adopt the proposed
6 cramming rules, Qwest recommends the following changes. Major
7 changes recommended by Qwest are outlined in the comments below.
8 These and other minor changes are reflected in Exhibit B.

9 **A.A.C. R14-2-2001. Definitions & 2003. Application**

10 **Subsection A:** Qwest proposes combining Rules 14-2-2001 and
11 14-2-2003, the definitional and application sections, for
12 simplicity. Moreover, to ensure consistency with the slamming
13 rules, Qwest recommends referencing the definition of
14 "telecommunications company" provided in Rule 14-2-1901, rather
15 than the definition provided in the Competitive
16 Telecommunications Rules. Finally, reference should be made to
17 the relevant definitional section contained Section 44-1571 of
18 the Arizona Revised Statutes.

19 **Subsection B:** The definition of Cramming must clearly
20 exclude charges that are lawfully billed, such as taxes,
21 regulatory assessments, operator service charges, late charges,
22 and so-called pay per use charges. Taxes and so-called pass
23 through charges should be excluded from the definition because
24 they are billed by "authority" of the governmental entity
25 imposing them. Charges triggered by the conduct of the
26 subscriber (pay per use services, late charges) should be

1 excluded because they are "authorized" in compliance with this
2 part of the rules.

3 **A.A.C. R14-2-2002. Purpose and Scope**

4 Because cramming often refers to charges imposed by an
5 "ancillary service provider" for goods or services that are
6 unrelated to the subscriber's telephone service, A.R.S. § 44-
7 1571, Qwest suggests that the provisions of this article should
8 address unauthorized charges on bills imposed by all entities,
9 not just telecommunications companies.

10 **A.A.C. R14-2-2004. Requirements for Billing Authorized Charges**
11 **(Re-numbered in Exhibit B as R14-2-2003)**

12 Subsection A(1): This rule presumes that contact with the
13 subscriber is necessarily by telephone. However, it is possible
14 that contact with the subscriber will be by website or by mail.
15 The obligation should be to take reasonable action so the
16 subscriber has the opportunity to become aware of material
17 information about the product or service.

18 Further, when a subscriber is advised of the applicable
19 charges, the telecommunications company ought to be able to
20 assume the subscriber expects to see the charges on the bill.
21 Requiring the representative to advise the subscriber that the
22 charges will appear on the bill is nothing but an unreasonable
23 and unfair trap for the unwary.

24 Subsection A(2): As noted above in response to Rule 14-2-
25 1906 and in Qwest's first set of comments, provision of a toll-
26 free number should be sufficient. The requirement in Subsection

1 A(2) that an address also be provided is burdensome and
2 unnecessarily costly.

3 Subsection A(3): While it may be argued that a name,
4 postal address and telephone number are reasonable data for a
5 billing agent to have to facilitate end user communication, a
6 list of every product or service is not. There is no regulatory
7 purpose in such a rule. Rather, the fundamental obligation for
8 providing the end user with an accurate service identification
9 should belong to the provider, not the billing agent, and the
10 rule should clearly reflect this. The revised rule, set forth in
11 Exhibit B ensures the ability of the Commission to secure
12 compliance without creating confusion as to which entity did
13 what. Moreover, this approach is consistent with the Federal
14 Truth in Billing obligations.

15 Subsection B: In its revised draft of the rules, the
16 Commission limited the definition of cramming to unauthorized
17 recurring charges. To be clear, Qwest proposes this idea be
18 reflected through the addition of Subsection B to Rule 14-2-2003
19 and Subsection C to Rule 14-2-2004. These new subsections are
20 necessary to deal with non-subscription services such as dial
21 around, pay per use services, late charges, early termination
22 charges and other charges, which although authorized by the
23 applicable tariffs and price lists, are not specifically or
24 separately authorized by the subscriber. Qwest believes this
25 makes clear the intent of the rules.

26

1 A.A.C. R14-2-2005. Authorization Requirements
2 (Re-numbered in Exhibit B as R14-2-2004)

3 Subsection A: Qwest recommends dividing the information
4 contained in this subsection into two subsections. Subsection A
5 would list the information that a telecommunications company
6 needs to obtain (the information may already exist in the records
7 of the telecommunications company, so there is no reason to
8 require it to be obtained "from" the subscriber), and Subsection
9 B would list the information that a telecommunications company
10 must provide to the subscriber.

11 With respect to the new Subsection A, Qwest recommends
12 replacing the term "certification" with "reasonable assurances."
13 Deciding exactly what "certification" entails is likely to lead
14 to confusion, and cross-examining callers as to their status will
15 undoubtedly lead to subscriber dissatisfaction and complaints.
16 "Reasonable assurances" is a commercially understandable and
17 acceptable standard that strikes the right balance between
18 subscriber protection and satisfaction. In addition, Qwest
19 recommends deleting the requirement that a telecommunications
20 company obtain "explicit customer acknowledgment that the charges
21 will be assessed on the customer's bill." As described above,
22 this requirement is nothing more than a trap for the unwary.

23 With respect to the new Subsection B, the obligation of the
24 provider, on the contact, should be limited to providing a clear,
25 non-misleading description of the product or service. While in
26 many cases an "explanation" may be desirable or useful, requiring

1 an explanation at the point of sale, in every case, is not
2 appropriate. Often customers purchase a service or product upon
3 the description, and read the instructions, later, for the
4 explanation. Similarly, representatives should be providing a
5 "statement" of applicable charges, not an "explanation".

6 Moreover, the representative should not be required to
7 provide the charges of every service or product offered, only
8 those that the subscriber requests or agrees to buy. On the
9 other hand, it is probably reasonable to expect an explanation of
10 how to cancel a service (although with respect to Qwest services,
11 that will rarely be more than "just call us").

12 Finally, Qwest sees no reason to require a description of
13 "how the charge will appear on the customer's bill." What is
14 critical to the subscriber is a description of the service or
15 product and a statement of the charges. Certainly, a
16 telecommunications company may provide further explanation for
17 some services in order to avoid subscriber confusion, but in most
18 cases, the subscriber will see the itemized description of the
19 service and the rate on the bill, and no description of how the
20 charges will appear will be needed. Again, the requirement,
21 applied to most services and products will add unnecessary time
22 to the subscriber contact, resulting in longer hold times.

23 Subsection C: As noted above in response to Rule 14-2-
24 2003(B), this new subsection is necessary to deal with non-
25 subscription services such as dial around, pay per use services,
26 late charges, early termination charges and other charges, which

1 although authorized by the applicable tariffs and price lists,
2 are not specifically or separately authorized by the subscriber.

3 Subsection B (Re-Numbered in Exhibit B as Subsection D):
4 Qwest recommends replacing the term service provider with the
5 previously defined term, "telecommunications company".

6
7 A.A.C. R14-2-2006. Unauthorized Charges
8 (Re-numbered in Exhibit B as R14-2-2005)

9 Subsection A(5): Qwest's current practice is to record
10 information regarding a complaint on the individual subscriber's
11 record, where all information pertaining to the subscriber's
12 account is currently maintained. Qwest believes this is the most
13 efficient and reasonable way in which to record such information.

14 Subsections C & D (Re-Numbered in Exhibit B as Subsections
15 B & C): Qwest recommends replacing the term "billing
16 telecommunications company" with "telecommunications company".
17 This rule should apply to all telecommunications companies, not
18 just to their billing agents. In addition, Qwest recommends
19 eliminating that portion of the rule that establishes a process
20 for handling disputed charges. Procedures for handling billing
21 disputes are already set forth in established Commission rules.
22 See A.A.C. R14-2-509; R14-2-510.

23 Finally, as noted above in response to Rule 14-2-1907, the
24 portion of the rule addressing credit reporting should be
25 eliminated. The Commission ought not inject itself into credit
26 reporting relationships, which are governed by federal law.
Qwest should be able to file reports, consistent with the

1 applicable law relating to such credit reporting.

2
3 A.A.C. R14-2-2007. Notice of Customer Rights
4 (Re-numbered in Exhibit B as R14-2-2006.
5 Notice of Subscriber Rights)

6 Subsection B(1): As noted above in response to Rule R14-
7 2-1906 and Rule 14-2-2004, provision of a toll-free number should
8 be sufficient. The requirement that an address also be provided
9 is burdensome and unnecessarily costly.

10 Subsection C(2): As noted above in response to Rule 14-2-
11 1908, this requirement should not be limited to the ILEC. The
12 rule should be re-written to either: (1) require each
13 telecommunications company to separately publish notice in a
14 directory; or (2) require each telecommunications company to bear
15 its share of the cost of a generic notice placed on behalf of all
16 companies.

17 A.A.C. R14-2-2008. Informal Complaint Process
18 (Re-numbered in Exhibit B as R14-2-2007)

19 As noted above in response to Rule 14-2-1910, Qwest
20 recommends significant revisions to this rule as reflected in
21 Exhibit B. The rule as currently drafted places the burden of
22 proof on the responding company and establishes a presumption
23 against the company in favor of the subscriber, raising due
24 process concerns.

25 A.A.C. R14-2-2009. Compliance
26 (Re-numbered in Exhibit B as R14-2-2008.
27 Coordination and enforcement)

28 As noted above in response to Rule 14-2-1911, this rule

1 essentially restates the penalty statutes contained in the
2 Arizona Revised Statutes. See A.R.S. §§ 44-1572; 44-1573.
3 Therefore, the rule is redundant and should be eliminated.

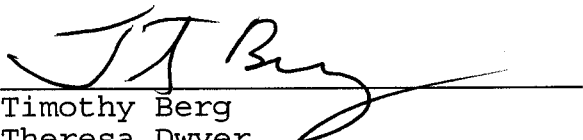
4 CONCLUSION

5 As noted in Qwest's first set of comments, the Commission
6 should give considerable thought before adopting separate,
7 distinct slamming rules. The Commission might be better served
8 to administer the existing FCC rules. As explained above, the
9 proposed cramming rules should be rejected. Nonetheless, if the
10 Commission chooses to go forward in publishing the proposed
11 slamming and cramming rules, Qwest recommends adoption of the
12 changes outlined herein.

13 RESPECTFULLY SUBMITTED this 6th day of August, 2001.

14 FENNEMORE CRAIG

15
16 By:


Timothy Berg
Theresa Dwyer
3003 North Central Avenue,
Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Qwest Corporation

20
21 ORIGINAL and ten copies of the
22 foregoing filed this 6th day of
23 August, 2001, with:

24 Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington
Phoenix, Arizona 85007

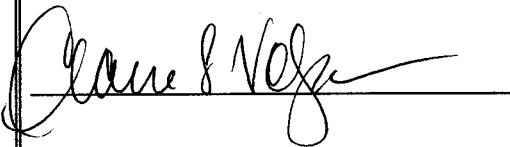
25 COPY of the foregoing hand delivered
26 this 6th day of August, 2001, to:

1 Christopher Kempley, Chief Counsel
Legal Division
2 ARIZONA CORPORATION COMMISSION
1200 West Washington
3 Phoenix, Arizona 85007

4 Deborah A. Scott, Director
Utilities Division
5 ARIZONA CORPORATION COMMISSION
1200 West Washington
6 Phoenix, Arizona 85007

7 COPY of the foregoing mailed this
6th day of August, 2001, to:
8
9 Donald Low
Sprint Communications Company L.P.
8140 Ward Parkway, 5E
10 Kansas City, MO 64114

11 Thomas H. Campbell
LEWIS AND ROCA
12 40 N. Central Avenue
Phoenix, Arizona 85004
13
14 Thomas F. Dixon
MCI WorldCom
707 17th Street, Suite 3900
15 Denver, Colorado 80202
Attorneys for MCI Telecommunications
16 Corporation and MCIMetro Access
Transmission Services
17
18 Paul Bullis, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
19 1200 West Washington Street
Phoenix, Arizona 85007

20
21 
22
23
24
25
26

A

ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

R14-2-1901.	Definitions
R14-2-1902.	Purpose and scope
R14-2-1903.	Application
R14-2-1904.	Authorized telecommunications company change procedures
R14-2-1905.	Verification of orders for telecommunications service
R14-2-1906.	Notice of change
R14-2-1907.	Unauthorized changes
R14-2-1908.	Notice of subscriber rights
R14-2-1909.	Preferred carrier freeze
R14-2-1910.	Complaint process
R14-2-1911.	Compliance and enforcement

R14-2-1901. Definitions

- A. "Authorized carrier" means any telecommunications company that submits, on behalf of a subscriber, a change in the subscriber's selection of a provider of telecommunications service, with the subscriber's authorization verified in accordance with the procedures specified in these rules.
- B. "Subscriber" means:
 - 1. The party identified in the account records of a telecommunications company as responsible for payment of the telephone bill;
 - 2. Any adult person authorized by such party to change telecommunications services or to charge services to the account; or
 - 3. Any person contractually or otherwise lawfully authorized to represent such party.
- C. "Preferred Carrier Freeze" means an authorization from a subscriber to impose a stay on any change in a telecommunications selection.
- D. "Executing telecommunications carrier" means a telecommunications company that affects a request that a subscriber's telecommunications company be changed.
- E. "Slamming" means an unauthorized change of a subscriber's preferred carrier.
- F. "Telecommunications company" means a public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.

R14-2-1902 Purpose and Scope

The provisions of this section are intended to ensure that all subscribers in this state are protected from an unauthorized change in a subscriber's local intraLATA or interLATA long-distance telecommunications company. The rules promote satisfactory service to the public by local and intraLATA or interLATA long-distance telecommunications companies and establish the rights and responsibilities of both company and subscriber. Liability standards and penalties are established to address non-compliance.

R14-2-1903. Application

These rules apply to all telecommunications companies, except providers of wireless, cellular, personal communications services or commercial radio services so long as such providers are not required to provide equal access to common carriers for the provision of telephone toll services.

R14-2-1904. Authorized telecommunications company change procedures

- A. No telecommunications company shall submit a change on behalf of a subscriber prior to obtaining authorization from the subscriber and obtaining verification of that authorization in accordance with R14-2-1905 of this rule.
- B. A telecommunications company submitting a change must comply with the verification procedures set forth in R14-2-1905.
- C. The telecommunications company submitting a change shall maintain and preserve records of verification of subscriber authorization for a minimum period of two years.

- D. A telecommunications company executing a change shall not contact the subscriber to verify the subscriber's selection that was received from a submitting telecommunications company.
- E. A telecommunications company executing a change shall execute such changes as promptly as reasonable business practices will permit. The executing telecommunications company shall have no liability for processing an unauthorized change.
- F. Where a telecommunications company is selling more than one type of services (local, intraLATA, interLATA), it shall obtain authorization from the subscriber for all services sold during a single contact.

R14-2-1905. Verification of orders for telecommunications service

- A. No telecommunications company shall submit a telecommunications company change order unless and until the order has first been confirmed in accordance with one of the following:
 - 1. The telecommunications company has obtained the subscriber's written authorization in a form that meets the requirements of this section;
 - 2. The telecommunications company has obtained the subscriber's Internet enabled authorization with electronic signature to submit the telecommunications company change order that meets the requirements of the section; or
 - 3. An independent third party qualified under the criteria set forth in subpart F has obtained and recorded the subscriber's verbal authorization to submit the telecommunications company change order that confirms and includes appropriate verification data pursuant to the requirements of this section.
- B. Written authorization obtained by a telecommunications company shall:
 - 1. Be a separate document containing only the authorizing language in accordance with verification procedures for this section;
 - 2. Have the sole purpose of authorizing a telecommunications company change;
 - 3. Be signed and dated by the subscriber requesting the telecommunications company change;
 - 4. Not be combined with any inducement; except a letter of agency may be combined with a check. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, boldface type on the front of the check, a notice that the subscriber is authorizing a preferred telecommunications company change by signing the check. This language shall be placed near the signature line on the back of the check.
 - 5. Be written in the same language as used in the underlying sales transaction.
- C. A telecommunications company that obtains a subscriber's electronic voice recorded authorization shall confirm the subscriber identification and service change information required.
- D. A telecommunications company electing to confirm sales telephonically shall establish one or more toll free telephone numbers exclusively for that purpose.
- E. A call to a toll-free number shall connect a subscriber to a recording mechanism that shall record the required information regarding the telecommunications company change, including automatically recording the originating automatic number identification information, if that information is available.
- F. A telecommunications company that obtains a subscriber's authorization verified by an independent third party shall comply with the following:
 - 1. The independent third party shall not be owned, managed, controlled, or directed by the telecommunications company or the company's marketing agent;
 - 2. The independent third party shall not have any financial incentive to confirm preferred telecommunications company change orders for the company or the company's marketing agents;
 - 3. The independent third party shall operate in a location physically separate from the telecommunications company or the company's marketing agent;
 - 4. The independent third party shall inform the subscriber that the call is being recorded and record the subscriber's authorization to change telecommunications company;
 - 5. All third party verification methods shall elicit, at a minimum:
 - a. the identity of the subscriber;
 - b. confirmation that the person on the call is authorized to make the telecommunications company change;
 - c. confirmation that the person on the call wants to make the telecommunications company change;
 - d. the telephone numbers to be switched; and
 - e. the types of service involved.
- G. All third party verifications shall be conducted in the same language that was used in the sales transaction.

R14-2-1906. Notice of change

When an authorized carrier has changed a subscriber's service, the company, or its billing and collection agent, on its behalf, shall clearly and conspicuously identify any change in service provider, including the name of the new telecommunications company and its toll-free telephone number.

R14-2-1907. Unauthorized changes

- A. A subscriber shall promptly notify the telecommunications company of any unauthorized change.
- B. Once a subscriber notifies the telecommunications company that the subscriber's service arrangement was changed without verification consistent with these rules, the telecommunications company submitting the unauthorized change shall take all actions within its control to facilitate the subscriber's return to the original telecommunications company as promptly as reasonable business practices will permit.
- C. Once a determination has been made that a slam has occurred, the unauthorized telecommunications company shall:
 - 1. Pay all charges associated with returning the subscriber to the original telecommunications company as promptly as reasonable business practices will permit, but no later than 30 business days;
 - 2. Provide all billing records related to the unauthorized change of services to the original telecommunications company within ten business days;
 - 3. Pay the original telecommunications company any amount paid to it by the subscriber that would have been paid to the original telecommunications company if the unauthorized change had not occurred, within 30 business days;
 - 4. Return to the subscriber within 30 business days:
 - a. Any amount paid by the subscriber for charges incurred during the first 30 days after the date of an unauthorized change; and,
 - b. Any amount paid by the subscriber after the first 30 days in excess of the charges that would have been charged if the unauthorized change had not occurred; and
 - c. Remove all unauthorized charges from the subscriber's account.
- D. A billing telecommunications company shall not suspend, disconnect, or terminate telecommunications service to any subscriber who disputes any billing charge pursuant to this section or for nonpayment of an unauthorized charge, unless the dispute regarding the unauthorized charges is ultimately resolved against the subscriber.
- E. The subscriber shall remain obligated to pay any charges that are not in dispute.

R14-2-1908. Notice of subscriber rights

- A. Each telecommunications company shall provide to its subscribers an annual notice of the subscribers' rights regarding unauthorized changes.
- B. The subscriber notice shall state:
 - 1. The name, address and telephone numbers where a subscriber can contact the telecommunications company;
 - 2. A telecommunications company is prohibited from changing a telephone service to another company without the subscriber's permission;
 - 3. An unauthorized telecommunications company changing a telephone service without the subscriber's permission is guilty of slamming and is required to return the service back to the subscriber's original provider;
 - 4. An unauthorized telecommunications company that has switched a telephone service without the subscriber's permission is required to pay all charges associated with returning the subscriber to the original telephone company as promptly as reasonable business practices will permit, but no later than 30 business days after a determination that unauthorized changes have been made;
 - 5. An unauthorized telecommunications company that has changed a telephone service without the subscriber's permission is required to provide all billing records to the subscriber's original telecommunications company within 10 business days of a determination that unauthorized changes have been made;
 - 6. An unauthorized telecommunications company that has changed a telephone service without the subscriber's permission is required to pay the subscriber's original telecommunications carrier company the charges the subscriber would have paid if the subscriber had not been slammed;

7. An unauthorized telecommunications company that has changed a telephone service without the subscriber's permission is required to refund to the subscriber within 30 business days all unauthorized charges paid by the subscriber;
 8. A subscriber that has been slammed can contact the original telephone company to request the service be changed back in accordance with A.A.C. R14-2-1905;
 9. An unsatisfied subscriber who believes that it has been slammed should report the unauthorized change to the Arizona Corporation Commission;
 10. The name, address, web site address, and telephone number of the Arizona Corporation Commission must be provided;
 11. To prevent being slammed, a subscriber can request that a preferred telecommunications company place a freeze on its telephone service account.
- C. A telecommunications company is to send the notice described in this rule to new subscribers at the time service is initiated, and upon subscriber request.
 - D. Every telecommunications company shall publish the notice described in this rule in the white pages of the next annual telephone directory.
 - E. Each telecommunications company shall display the notice on the company's web site.
 - F. The notice shall be in both English and Spanish as necessary to effectively inform the subscriber.

R14-2-1909. Preferred carrier freeze

- A. A preferred carrier freeze ("freeze") prevents a change in a subscriber's telecommunications company selection unless the subscriber gives consent to the local exchange company that implemented the freeze to make a change.
- B. All local exchange telephone companies that offer a freeze shall do so on a nondiscriminatory basis to all subscribers, regardless of the subscriber's selection of telephone company.
- C. Subscriber information on a freeze shall clearly distinguish between intraLATA and interLATA telecommunications services.
- D. All information provided by a telecommunications company regarding a freeze shall have the sole purpose of educating subscribers and providing information in a neutral way to allow the subscriber to make an informed decision.
- E. A local exchange company shall not implement a freeze unless a customer's request is verified.
- F. A local exchange company shall allow subscribers to lift the freeze by:
 1. Submitting written authorization stating the subscriber's intent to lift the freeze;
 2. Verbal authorization with confirmation on verification data.
- G. If a telecommunications company wants to charge the subscriber for imposing or lifting a freeze, the company must file a tariff for Commission approval.
- H. A local exchange company shall not impose a freeze on local service, intraLATA or intrastate telecommunications on its own initiative.
- I. A local exchange company shall maintain records of all freeze authorizations and repeals for a period of 24 months.

R14-2-1910. Informal complaint process

- A. An informal slamming complaint may be submitted to the Commission Staff either in writing, telephonically or via electronic transmission, and must include the following:
 1. The complainant's name, current address and telephone number, and any existing e-mail address;
 2. The names of the alleged unauthorized telecommunications company, the authorized telecommunications company and the executing telecommunications company;
 3. The approximate date of the alleged unauthorized change;
 4. A statement of the facts that support the complainant's allegations;
 5. Copies of documents within the complainant's possession or control that support the complainant's allegations;
 6. A statement of whether the complainant has paid any disputed charges; and,
 7. The specific relief sought.
- B. Commission Staff shall:
 1. Assist the parties in resolving the informal slamming complaint;
 2. Notify the executing telecommunications company, authorized telecommunications company, and alleged unauthorized telecommunications company of the alleged unauthorized change;

3. Request the telecommunications company provide Staff an initial response in five (5) business days; and
 4. Request that the telecommunications company provide documentation of the subscriber's written, Internet authorization or recorded and third party verification.
- C. The telecommunications company shall provide Staff with any other additional information Staff requests concerning the alleged unauthorized change within twenty (20) business days of the telecommunications company's receipt of such Staff request.
- D. If the telecommunications company and the complaining party do not resolve the matter, the Staff will conduct a review of the complaint and related materials to determine if an unauthorized change has occurred, which shall be completed within sixty (60) days of Staff's receipt of any informal slamming complaint.
- E. Upon conclusion of its review, Staff will render written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any of the parties. Either party will still have the right to file a formal complaint with the Commission pursuant to A.R.S. § 40-246.

R14-2-1911. Coordination of enforcement

The Commission shall coordinate its enforcement measures efforts regarding alleged slamming violations with the Arizona Attorney General to ensure consistent treatment.

ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

R14-2-1901.	Definitions
R14-2-1902.	Purpose and scope
R14-2-1903.	Application
R14-2-1904.	Authorized telecommunications company change procedures
R14-2-1905.	Verification of orders for telecommunications service
R14-2-1906.	Notice of change
R14-2-1907.	Unauthorized changes
R14-2-1908.	Notice of customer's subscriber rights
R14-2-1909.	Customer Preferred account carrier freeze
R14-2-1910.	Complaint process
R14-2-1911.	Compliance and enforcement

R14-2-1901. Definitions

- A. "Authorized carrier" —means any telecommunications company that submits, on behalf of a customer's subscriber, a change in the customer's subscriber's selection of a provider of telecommunications service, with the customer's subscriber's authorization verified in accordance with the procedures specified in these rules.
- B. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of service as defined by R14-2-501(9).
- B. "Subscriber" means:
1. The party identified in the account records of a telecommunications company as responsible for payment of the telephone bill;
 2. Any adult person authorized by such party to change telecommunications services or to charge services to the account; or
 3. Any person contractually or otherwise lawfully authorized to represent such party.
- C. "Customer Preferred Account Carrier Freeze" means an authorization, either written, electronic, or with 3rd party verification, from a customer's subscriber to impose a stay on any change in a telecommunications service's selection.
- D. "Executing telecommunications carrier" means a telecommunications company that effects affects a request that a customer's subscriber's telecommunications company be changed.
- E. "Letter of agency" ("LOA") "Slamming" means written authorization, including Internet-enabled with electronic signature, from a customer for an unauthorized change in telecommunications of a subscriber's preferred carrier.
- F. "Slamming" means any change in an end-use customer's presubscription to a telecommunications service subject to the jurisdiction of the Commission which is made without appropriate consent of the customer.
- G-E. "Telecommunications company" —means Aa public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.

R14-2-1902 Purpose and Scope

The provisions of this section are intended to ensure that all customer's subscribers in this state are protected from an unauthorized change in a customer's subscriber's local intraLATA or interLATA long-distance telecommunications company. The rules promote satisfactory service to the public by local and intraLATA or interLATA long-distance long-distance telecommunications company companies and establish the rights and responsibilities of both company and customer's subscriber. Liability standards and penalties are established to ensure address non-compliance.

R14-2-1903. Application

These rules, including any references to the requirements in 47 C.F.R. 64.1100 and 47 C.F.R. 64.1150, apply to each telecommunications company, that is required to provide interLATA, intraLATA equal access. These rules do not apply to apply to all time as those telecommunications companies, except providers of wireless, cellular, personal

communications services or commercial radio services, ~~until so long as such time as those telecommunications companies~~ providers ~~are mandated by law~~ not required to provide equal access or local number portability to common carriers for the provision of telephone toll services.

R14-2-1904. Authorized telecommunications company change procedures

- A. No telecommunications company shall submit a change on behalf of a ~~customer~~ subscriber prior to obtaining authorization from the ~~customer~~ subscriber and obtaining verification of that authorization in accordance with R14-2-1905 of this rule.
- B. A telecommunications company submitting a change, must comply with the verification procedures set forth in R14-2-1905.
- C. The telecommunications company submitting a change shall maintain and preserve records of verification of ~~customer~~ subscriber authorization for a minimum period of two years.
- D. A telecommunications company executing a change shall not contact the ~~customer~~ subscriber to verify the ~~customer's~~ subscriber's selection that was received from a submitting telecommunications company.
- E. A telecommunications company executing a change shall execute such changes as promptly as reasonable business practices will permit. The executing telecommunications company shall have no liability for processing an unauthorized change.
- F. Where a telecommunications company is selling more than one type of services (local, intraLATA, interLATA), it shall obtain authorization from the subscriber for all services sold during a single contact.

R14-2-1905. Verification of orders for telecommunications service

- A. No telecommunications company shall submit a telecommunications company change order unless and until the order has first been confirmed in accordance with one of the following:
 - 1. The telecommunications company has obtained the ~~customer~~ subscriber's written authorization in a form that meets the requirements of this section;
 - 2. The telecommunications company has obtained the ~~customer~~ subscriber's Internet enabled authorization with electronic signature to submit the telecommunications company change order that meets the requirements of the section; or
 - 3. An independent third party qualified under the criteria set forth in subpart F has obtained and recorded the ~~customer~~ subscriber's verbal authorization to submit the telecommunications company change order that confirms and includes appropriate verification data pursuant to the requirements of this section.
- B. Written authorization obtained by a telecommunications company shall:
 - 1. Be a separate document containing only the authorizing language in accordance with verification procedures for this section;
 - 2. Have the sole purpose of authorizing a telecommunications company change;
 - 3. Be signed and dated by the ~~customer or qualified representative~~ subscriber requesting the telecommunications company change;
 - 4. Not be combined with any inducement ; except a letter of agency may be combined with a check. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, ~~bold-face~~ boldface type on the front of the check, a notice that the ~~customer~~ subscriber is authorizing a preferred telecommunications company change by signing the check. This language shall be placed near the signature line ~~of~~ on the back of the check.
 - 5. Be written in the same language as used in the underlying sales transaction.
 - ~~6. Electronically signed letter of agency (Internet LOAs) are valid written authorization.~~
- C. A telecommunications company that obtains a ~~customer~~ subscriber's electronic voice recorded authorization shall confirm the ~~customer~~ subscriber identification and service change information required.
- D. A telecommunications company electing to confirm sales telephonically shall establish one or more toll free telephone numbers exclusively for that purpose.
- E. A call to a toll-free number shall connect a ~~customer~~ subscriber to a recording mechanism that shall record the required information regarding the telecommunications company change, including automatically recording the originating automatic number identification information, if that information is available.
- F. A telecommunications company that obtains a ~~customer~~ subscriber's authorization verified by an independent third party shall comply with the following:
 - 1. The independent third party shall not be owned, managed, controlled, or directed by the telecommunications company or the company's marketing agent;

2. The independent third party shall not have any financial incentive to confirm preferred telecommunications company change orders for the company or the company's marketing agents;
3. The independent third party shall operate in a location physically separate from the telecommunications company or the company's marketing agent;
4. The independent third party shall inform the customersubscriber that the call is being recorded and record the customersubscriber's authorization to change telecommunications company;
5. All third party verification methods shall elicit, at a minimum:
 - a. the identity of the customersubscriber;
 - b. confirmation that the person on the call is authorized to make the telecommunications company change;
 - c. confirmation that the person on the call wants to make the telecommunications company change;
 - d. the names of the telecommunications companies affected by the change; _____ e. _____ the telephone numbers to be switched; and _____ f. _____ e. the types of service involved.
- G. All third party verifications shall be conducted in the same language that was used in the sales transaction.

R14-2-1906. Notice of change

When an authorized carrier has changed a customersubscriber's service, the company, or its billing and collection agent, on its behalf, shall clearly and conspicuously identify any change in service provider, including the name of the new telecommunications company, their address and its toll-free telephone number.

R14-2-1907. Unauthorized charges

- A. A customersubscriber shall promptly notify the telecommunications company of any unauthorized change.
- B. Once a customersubscriber notifies the telecommunications company that the customersubscriber's service arrangement was changed without verification consistent with these rules, it is the responsibilities of the telecommunications company submitting the unauthorized change to: 1. ~~Take~~ shall take all actions within its control to facilitate the customersubscriber's return to the original telecommunications company as promptly as reasonable business practices will permit, but no later than five business days.
- C. Once a determination has been made that a slam has occurred, the unauthorized telecommunications company must pay shall:
 1. Pay all charges associated with returning the customer to the original telecommunications company subscriber the unauthorized change of services to the original telecommunications company as promptly as reasonable business practices will permit, but no later than 30 business days;
 - 1.2. Provide all billing records related to the unauthorized change of services to the original telecommunications company within ten business days of the customer's request; 2. Pay the original telecommunications company any amount paid to it by the customer that would have been paid to the original telecommunications company if the unauthorized change had not occurred, of services to the original telecommunications company within 30 ten business days of the customer's request;
 3. Pay the original telecommunications company any amount paid to it by the subscriber that would have been paid to the original telecommunications company if the unauthorized change had not occurred, within 30 business days;
 - 3.4. Return to the customersubscriber within 30 business days of the customer's request:
 - a. Any amount paid by the customersubscriber for charges incurred during the first 30 days after the date of an unauthorized change; and,
 - b. Any amount paid by the customersubscriber after the first 30 days in excess of the charges that would have been charged if the unauthorized change had not occurred; and
 - c. Remove all unauthorized charges from the customersubscriber's account.
- D. A billing telecommunications company shall not: 1. ~~Suspend~~ suspend, disconnect, or terminate telecommunications service to any customersubscriber who disputes any billing charge pursuant to this section or for nonpayment of an unauthorized charge, unless the dispute regarding the unauthorized charges is ultimately resolved against the customer, or subscriber.
2. ~~File an unfavorable credit report against a customer who has not paid charges that the customer has alleged were unauthorized, unless the dispute regarding the unauthorized charges is ultimately resolved against the customer.~~
- E. The customersubscriber shall remain obligated to pay any charges that are not in dispute.

R14-2-1908. Notice of customersubscriber rights

- A. Each telecommunications company shall provide to its customersubscribers an annual notice of the customersubscribers's rights regarding unauthorized changes.
- B. The customersubscriber notice shall state:
1. The name, address and telephone numbers where a customersubscriber can contact the telecommunications company;
 2. A telecommunications company is prohibited from changing a telephone service to another company without the customer'subscriber's permission;
 3. An unauthorized telecommunications company changing a telephone service without the customersubscriber's permission is guilty of slamming and is required to return the service back to the customer'subscriber's original provider;
 4. An unauthorized telecommunications company that has switched a telephone service without the customersubscriber's permission is required to pay all charges associated with returning the customersubscriber to the original telephone company as promptly as reasonable business practices will permit, but no later than 30 business days of the customer's request after a determination that unauthorized changes have been made;
 5. An unauthorized telecommunications company that has changed a telephone service without the customer'subscriber's permission is required to provide all billing records to the customersubscriber's original telecommunications company within 10 business days of the customer's request a determination that unauthorized changes have been made;
 6. An unauthorized telecommunications company that has changed a telephone service without the customer'subscriber's permission is required to pay the customersubscriber's original telecommunications carrier company the charges the customersubscriber would have paid if the customersubscriber had not been slammed;
 7. An unauthorized telecommunications company that has changed a telephone service without the customer'subscriber's permission is required to refund to the customersubscriber within 30 business days all unauthorized charges paid by the customer;subscriber;
 8. A customersubscriber that has been slammed can contact the original telephone company to request the service be changed back in accordance with A.A.C. R14-2-1905.1905;
 9. ~~A customer~~An unsatisfied subscriber who believes that it has been slammed should report the unauthorized change to the Arizona Corporation Commission;
 10. The name, address, web site address, and telephone number of the Arizona Corporation Commission must be provided;
 11. To prevent being slammed, a customersubscriber can request that a preferred telecommunications company place a freeze on its telephone service account.
- C. A telecommunications company is to send the notice described in this rule to new customersubscribers at the time service is initiated, and upon customersubscriber request.
- D. ~~Each~~Every telecommunications company that publishes a telephone directory shall ~~print~~publish the notice described in this rule in the white pages of ~~its~~the next annual telephone directory.
- E. Each telecommunications company shall display the notice on the company's web site.
- F. The notice shall be in both English and Spanish as necessary to effectively inform the customersubscriber.

R14-2-1909. CustomerPreferred accountcarrier freeze

- A. A customer'spreferred accountcarrier freeze ("freeze") prevents a change in a customersubscriber's telecommunications company selection unless the customersubscriber gives consent to the local exchange company that implemented the freeze to make a change.
- B. All local exchange telephone companies that offer a freeze shall do so on a nondiscriminatory basis to all customers:
subscribers, regardless of the subscriber's selection of telephone company.
- C. CustomerSubscriber information on a freeze shall clearly distinguish between intraLATA and interLATA telecommunications services.
- D. All information provided by a telecommunications company regarding a freeze shall have the sole purpose of educating customersubscribers and providing information in a neutral way to allow the customersubscriber to make an informed decision; ~~and shall not market or induce the customer to request a freeze.~~

- E. A local exchange company shall not implement a freeze unless a customer's freeze authorization is written, electronic, or verbal authorization with 3rd party verification request is verified.
- F. A customer may local exchange company shall allow subscribers to lift the freeze on its account with written, electronic or verbal by:
 - 1. Submitting written authorization stating the subscriber's intent to lift the freeze;
 - 2. Verbal authorization with 3rd confirmation party on verification: data.
- G. If a telecommunications company wants to charge the customer subscriber for imposing or lifting a freeze, the company must file a tariff for Commission approval.
- H. A local exchange company shall not impose a freeze on local service, intraLATA or intrastate telecommunications on its own initiative.
- I. A local exchange company shall maintain records of all freeze authorizations and repeals for a period of ~~two~~ 24 ~~years~~ months.

R14-2-1910. Complaint Informal complaint process

- A. An informal slamming complaint may be submitted to the Commission Staff either in writing, telephonically or electronically transmitted. Information should via electronic transmission, and must include the following:
 - 1. Complainant The complainant's name, current address, and telephone number, and any existing e-mail if possible address;
 - 2. The names of the alleged unauthorized telecommunications company, the authorized telecommunications company and the executing telecommunications company;
 - 3. The approximate date of the alleged unauthorized change (if known);
 - 4. A statement of the facts (including documentation) to that support the complainant's allegations;
 - 5. Copies of documents within the complainant's possession or control that support the complainant's allegations;
 - 6. A statement of whether the complainant has paid any disputed charges; and,
 - 7. The specific relief sought.
- B. ~~Staff of the Arizona Corporation Commission will:~~ Staff shall:
 - 1. Assist the complainant parties in resolving the informal slamming complaint;
 - 2. Notify the ~~7. Inform the customer, executing telecommunications company, alleged unauthorized telecommunications company and authorized telecommunications company of its findings upon, and alleged~~
 - 2. ~~Notify the executing telecommunications company, authorized telecommunications company, and alleged unauthorized telecommunications company of the alleged unauthorized change.;~~
 - 3. Request the alleged unauthorized telecommunications company provide Staff an initial response in five (5) business days; and
 - 4. Request that the alleged unauthorized telecommunications company telecommunications company provide documentation of the customer subscriber's written, Internet authorization or recorded and third party verification. Such information will be provided to Staff within 20 business days of the initial notification or a valid presumption will exist that an unauthorized change occurred and Staff will make a finding that such a change did occur.
 - 5. ~~Advise the~~ The telecommunications company that it must shall provide Staff with any other additional information requested by Staff requests concerning the alleged unauthorized change within ~~10~~ twenty (20) business days of Staff the telecommunications company's receipt of such Staff request.
 - 6. ~~Conduct~~ D. If the telecommunications company and the complaining party do not resolve the matter, the Staff will conduct a review of the complaint and related materials to determine if an unauthorized change has occurred, which shall be completed within sixty (60) days of Staff's receipt of any informal slamming complaint.
 - 7. ~~Inform the customer, executing telecommunications company, alleged unauthorized telecommunications company and authorized telecommunications company of its findings upon~~ E. Upon conclusion of its review:
- C. ~~In the event either party is dissatisfied with the Staff resolution, either party may appeal the decision within ten business days. Such an appeal would be heard by an appointed Utilities Division Staff arbitrator.~~ D. If the

~~complainant is unsatisfied with the resolution, Staff will render written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any of the complainant under this section parties. Either party will still have the complainant right may to file a formal complaint with the Commission pursuant to A.R.S. § 40-246.~~

R14-2-1911. Compliance Coordination and enforcement

- ~~A. A telecommunications company shall provide a copy of their records of customer verification and unauthorized changes maintained under the requirements of R14-2-1905 to Commission Staff upon request.~~
- ~~B. If, after notice and Commission deliberation, the Commission finds that a telecommunications company is in violation of any section of this rule, the Commission shall order the company to take corrective action as necessary, and the company may be subject to penalties of not more than \$7,500 for the first violation and not more than \$15,000 for each subsequent violation in this state. Furthermore, after notice and hearing, a telecommunications company in violation of these rules may be sanctioned by a prohibition on further solicitation of new customers for a specified period, or revocation of its certificate of convenience and necessity.~~
- ~~C. In determining whether to impose a civil penalty, the amount of the civil penalty, suspension of services, or whether revocation of a certificate of convenience and necessity is warranted, the Commission may consider any matter and evidence that it deems appropriate. Moreover, the penalties prescribed in this section are in addition to all other causes of action remedies and penalties provided under the laws of this state.~~
- ~~D. The Commission shall coordinate its enforcement measures efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices alleged slamming violations with the Arizona Attorney General in order to ensure consistent treatment of specific alleged violations.~~

B

ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

R14-2-2001	Definitions
R14-2-2002	Purpose and Scope
R14-2-2003	Requirements for Billing Authorized Charges
R14-2-2004	Authorization Requirements
R14-2-2005	Unauthorized Charges
R14-2-2006	Notice of Subscriber Rights
R14-2-2007	Informal Complaint Process
R14-2-2008	Coordination of Enforcement

R14-2-2001. Definitions

- A. Words and phrases defined in A.R.S. § 44-1571 and A.A.C. R14-2-1901 have the same meaning when used in this article, unless the context otherwise requires.
- B. "Cramming" means any charge on a subscriber's telephone bill that was not authorized in compliance with this section. This does not include charges that appear on a subscriber's telephone bill such as taxes, regulatory assessments, and other similar amounts that may lawfully be "passed-through" to the subscriber.

R14-2-2002. Purpose and Scope

The provisions of this article are intended to ensure that all subscribers in this state are protected from unauthorized charges on their bills.

R14-2-2003. Requirements For Billing Authorized Charges

- A. A telecommunications company shall meet all of the following requirements before submitting charges for any product or service regulated by the Commission and billed to any subscriber:
 - 1. The telecommunications company providing the product or service shall take reasonable action so that the subscriber has the opportunity to be aware of the material information about the product or service, including the applicable charges;
 - 2. The telecommunications company providing the product or service shall be responsible to ensure that the subscriber has a toll-free telephone number on the bill to obtain information regarding the resolution of billing disputes;
 - 3. The telecommunications company providing the product or service shall provide its billing agent with its name, postal address, and telephone number. The telecommunications company providing the product or service shall be responsible to ensure that the product or service is identified on the subscriber's bill.
- B. Where a product or service is made available to subscribers for purchase on a "per use" basis (such as, but not limited to "pay per use" features such as Call Trace, 10XXX toll calls, etc.) and where a charge arises due to the act or omission of the subscriber (such as, but not limited to, late payments, failure to perform a contract resulting in termination charges, etc.), telecommunications companies shall be deemed to have complied with R14-2-2003 A.1. by filing the terms, conditions, and rates (or formula to calculate the charges) for such products, services or charges with the Commission.

R14-2-2004. Authorization Requirements

- A. A telecommunications company must obtain the following information when a subscriber requests a product or service:
 - 1. The date of service request;
 - 2. The name and telephone number of the subscriber; and
 - 3. Reasonable assurances that the person placing the order is authorized to order the product or service.
- B. A telecommunications company must provide the following information to a subscriber requesting a product or service:
 - 1. A brief, clear, non-misleading description of the product or service requested;
 - 2. A statement of the applicable charges for each product or service requested;
 - 3. An explanation of how a product or service can be cancelled; and
 - 4. A working, toll-free telephone number for subscriber inquiries.
- C. Where a product or service is made available to subscribers for purchase on a "per use" basis (such as, but not limited to "pay per use" features such as Call Trace, 10XXX toll calls, etc.) and where a charge arises due to the act or omission of the subscriber (such as, but not limited to, late payments, failure to perform a contract

resulting in termination charges, etc.), telecommunications companies shall be deemed to have complied with this R14-2-2004 by filing the terms, conditions, and rates (or formula to calculate the charges) for such products, services or charges with the Commission.

- D. A telecommunications company offering a product or service shall maintain a record of the information required under Sections (A) and (B) of this rule for a period of at least six (6) months.

R14-2-2005. Unauthorized Charges

- A. Upon a determination that a subscriber's telephone bill has been charged for any unauthorized product or service, the telecommunications company providing the unauthorized product or service shall within sixty (60) days from the date of the determination:
1. Immediately cease charging the subscriber for the unauthorized product or service;
 2. Authorize removal of the unauthorized charge from the subscriber's bill;
 3. Refund or credit to the subscriber all money that has been paid by the subscriber for any unauthorized charge, and if any unauthorized charge that has been paid is not refunded or credited within three billing cycles, shall pay interest on the amount of any unauthorized charge at an annual rate established by the Commission pursuant to A.A.C. R14-2-503(B)(3) until the unauthorized charge is refunded or credited;
 4. Upon the subscriber's request, provide the subscriber with copies of the billing records related to any unauthorized charge. The billing records shall be provided within fifteen (15) business days of the subscriber's request; and
 5. Note on the subscriber's record that the subscriber complained of an unauthorized charge, including the date and resolution of the subscriber's complaint.
- B. A telecommunications company shall not suspend, disconnect, or terminate telecommunications service to any subscriber who disputes any charge pursuant to this section or for nonpayment of such disputed charge pending a final determination by the Commission.
- C. A telecommunications company and its billing agent shall hold only disputed charges in abeyance pending resolution of the dispute by the Commission. The subscriber shall remain obligated to pay any charges that are not in dispute. The telecommunications company may implement normal termination procedures if the subscriber fails to pay all undisputed charges owed prior to and rendered during resolution of the dispute by the Commission.

R14-2-2006. Notice of Subscriber Rights

- A. Each telecommunications company shall provide to its subscribers a notice of subscriber rights regarding unauthorized cramming charges.
- B. The notice of subscriber rights shall include the following:
1. The name and toll-free telephone number where a subscriber can contact the telecommunications company;
 2. A statement that the telecommunications company may not add products and services to a subscriber's telephone service without the subscriber's authorization in accordance with these rules;
 3. A statement that the telecommunications company must restore the subscriber's service to its original state upon a determination that the subscriber has been crammed;
 4. A statement that a telecommunications company must refund to a subscriber any amount the subscriber has paid that company for unauthorized charges as promptly as reasonable business practices permit, but no later than sixty (60) days of a determination that the subscriber has been crammed;
 5. A statement that any unsatisfied subscriber may call the Commission to report charges the subscriber believes to be unauthorized; and
 6. The name, address, web site address and telephone number of the Commission.
- C. Distribution, language and timing of the notice of subscriber rights:
1. A telecommunications company shall provide the notice described in this rule to new subscribers at the time service is initiated, and upon request;
 2. Every telecommunications company shall publish the notice described in this rule in the white pages of the next annual telephone directory;
 3. Every telecommunications company shall display the notice described in this rule on the company's web site; and
 4. The notice of subscriber rights shall be in both English and Spanish.

R14-2-2007. Informal Complaint Process

- A. An informal cramming complaint may be submitted to the Commission Staff either in writing, telephonically or via electronic transmission, and must include the following:
1. The complainant's name, current address and telephone number, and any existing e-mail address;
 2. The name of the telecommunications company allegedly providing the unauthorized product or service, and its billing agent, if any;
 3. The approximate date of the alleged unauthorized charge;
 4. A statement of the facts that support the complainant's allegations;
 5. Copies of documents within the complainant's possession or control that support the complainant's allegations;
 6. A statement of whether the complainant has paid any disputed charges; and,
 7. The specific relief sought.
- B. Commission Staff shall:
1. Assist the parties in resolving the informal cramming complaint;
 2. Notify the telecommunications company allegedly providing the unauthorized product or service of the alleged unauthorized charge;
 3. Request the telecommunications company provide Staff an initial response in five (5) business days; and
 4. Request that the telecommunications company provide documentation of the subscriber's new service or product request.
- C. The telecommunications company shall provide Staff with any other additional information Staff requests concerning the alleged unauthorized charge within twenty (20) business days of the telecommunications company's receipt of such Staff request.
- D. If the telecommunications company and the complaining party do not resolve the matter, the Staff will conduct a review of the complaint and related materials to determine if an unauthorized charge has occurred, which shall be completed within sixty (60) days of Staff's receipt of any informal cramming complaint.
- E. Upon conclusion of its review, Staff will render written summary of its findings and recommendation to all parties. Staff's written summary is not binding on any of the parties. Either party will still have the right to file a formal complaint with the Commission pursuant to A.R.S. § 40-246.

R14-2-2008. Coordination of enforcement

The Commission shall coordinate its enforcement measures efforts regarding alleged cramming violations with the Arizona Attorney General to ensure consistent treatment.

ARTICLE 20. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHARGES

R14-2-2001	Definitions
R14-2-2002	Purpose and Scope
R14-2-2003	Application
R14-2-2004	Requirements for Billing Authorized Charges
R14-2-2005	Authorization Requirements
R14-2-2006	Unauthorized Charges
R14-2-2007	Notice of Customer <u>Subscriber</u> Rights
R14-2-2008	<u>Informal</u> Complaint Process
R14-2-2009	Compliance <u>2008</u> <u>Coordination</u> and <u>Enforcement</u>

R14-2-2001. Definitions

A. Words and phrases defined in A.R.S. § 44-1571 and A.A.C. R14-2-1901 have the same meaning when used in this article, unless the context otherwise requires.

A.B. "Cramming" means any recurring charge on a customer subscriber's telephone bill that was not authorized or verified in compliance with this section. This does not include one-time charges or that appear on a subscriber's telephone bill such as taxes, regulatory assessments, and other surcharges similar amounts that have been authorized to may lawfully be "passed-through" to the customer subscriber.

R14-2-2002. Purpose and Scope

The provisions of this section article are intended to ensure that all customer subscribers in this state are protected from unauthorized charges on their bill from a telecommunications company bills.

R14-2-2003. Application

This section, including any references in this section to the requirements in 47 C.F.R. 64.1100 and 47 C.F.R. 64.1150 applies to each "telecommunications company" as that term is defined in A.A.C. R14-2-1102.15. R14-2-2004. **Requirements For Billing Authorized Charges:**

A. A telecommunications company, or its billing agent, shall meet all of the following requirements before submitting charges for any product or service regulated by the Commission and billed onto any customer's telephone bill subscriber:

1. The telecommunications company offering providing the product or service regulated by the Commission shall inform take reasonable action so that the customer subscriber has the opportunity to be aware of the material information about the product or service being offered, including all the associated applicable charges, and explicitly inform the customer that the associated charges for the product or service will appear on the customer's telephone bill;
2. The telecommunications company offering providing the product or service, and any billing agent for the company, shall provide be responsible to ensure that the customer subscriber with has a toll-free telephone number on the customer may call and an address to which the customer may write bill to obtain information regarding the resolution of billing disputes;
3. The serving telecommunications company, providing the product or its agent, service shall provide the its billing service provider agent with its name, postal address, and telephone number, and a list with accurate descriptions of. The telecommunications company providing the products and services it intends product or service shall be responsible to charge on any customer's bill so ensure that any the product or service being charged can clearly and easily be identified on the customer subscriber's bill.

B. Where a product or service is made available to subscribers for purchase on a "per use" basis (such as, but not limited to "pay per use" features such as Call Trace, 10XXX toll calls, etc.) and where a charge arises due to the act or omission of the subscriber (such as, but not limited to, late payments, failure to perform a contract resulting in termination charges, etc.), telecommunications companies shall be deemed to have complied with R14-2-2003 A.1. by filing the terms, conditions, and rates (or formula to calculate the charges) for such products, services or charges with the Commission.

R14-2-2005-2004. Authorization Requirements

A. A telecommunications company must obtain and/or communicate the following information from a customer requesting a product or service: when a subscriber requests a product or service:

1. Date The date of service request;
2. Name The name and telephone number of the customer subscriber; and

3. ~~Certification~~Reasonable assurances that ~~customer~~the person placing the order is authorized to order the product or service;

B. A telecommunications company must provide the following information to a subscriber~~from a customer requesting a product or service;~~

~~— 4. Explanation of each~~1. A brief, clear, non-misleading description of the product or service offered~~requested;~~

~~5. 2. Explanation~~A statement of all the applicable charges for each product or service requested;

~~— 6. Explicit customer acknowledgement that the charges will be assessed on the customer's bill;~~

~~7. 3. Explanation~~An explanation of how a product or service can be cancelled; and

~~— 8. Description of how the charge will appear on the customer's bill; and~~

~~9. 4. Information on whom to call and a~~A working, toll-free telephone number for customer~~subscriber~~ inquiries.

C. Where a product or service is made available to subscribers for purchase on a "per use" basis (such as, but not limited to "pay per use" features such as Call Trace, 10XXX toll calls, etc.) and where a charge arises due to the act or omission of the subscriber (such as, but not limited to, late payments, failure to perform a contract resulting in termination charges, etc.), telecommunications companies shall be deemed to have complied with this R14-2-2004 by filing the terms, conditions, and rates (or formula to calculate the charges) for such products, services or charges with the Commission.

B.D. ~~A record shall be maintained by the service provider~~A telecommunications company offering the product or service shall maintain a record of the information required under Sections (A) and (B) of this rule for a period of at least six (6) months.

R14-2-2006-2005.

Unauthorized Charges

A. ~~If a customer~~Upon a determination that a subscriber's telephone bill ~~is~~has been charged for any unauthorized product or service, the billing telecommunications company, ~~on its knowledge or upon notification of any~~ providing the unauthorized charge, ~~product or service~~ shall promptly ~~as reasonable business practices will permit, but not later than~~ within sixty (60) days from the date of obtaining knowledge or notification of an unauthorized charge ~~the determination~~:

1. Immediately cease charging the customer~~subscriber~~ for the unauthorized product or service;

2. Remove~~Authorize removal of~~ the unauthorized charge from the customer~~subscriber's~~ bill;

3. Refund or credit to the customer~~subscriber~~ all money that has been paid by the customer~~subscriber~~ for any unauthorized charge, and if any unauthorized charge that has been paid is not refunded or credited within three billing cycles, shall pay interest on the amount of any unauthorized charge at an annual rate established by the Commission pursuant to A.A.C. R14-2-503(B)(3) until the unauthorized charge is refunded or credited;

4. Provide~~Upon~~ the customer, ~~upon the customer~~subscriber's request, ~~all~~provide the subscriber with copies of the billing records ~~under the control of the billing telecommunications company~~ related to any unauthorized charge. The billing records shall be provided within fifteen (15) business days of the customer~~subscriber's~~ request; and

~~— 5. Maintain for at least two years a record of every customer who has experienced any unauthorized charge for a product or service on the customer's telephone bill and has notified the billing provider of the unauthorized charge.~~

5. Note on the subscriber's record that the subscriber complained of an unauthorized charge, including the date and resolution of the subscriber's complaint. The record for each unauthorized charge shall include:

~~— a. The name of the telecommunications company that offered the product or service;~~

~~b. Any affected telephone number;~~

~~c. The date each customer requested that the billing provider remove the unauthorized charge from the customer's bill; and;~~

~~d. The date the customer was refunded or credited any money that the customer paid for unauthorized charges.~~

B. Once a charge is removed from the customer's telephone bill, it shall not be re-billed on the telephone bill for past or future periods, unless the customer and the service provider agree that the customer was accurately billed, or the Commission determines that the charge was authorized and the change is valid.

C. ~~A billing~~B. A telecommunications company shall not: 1. ~~Suspend~~ suspend, disconnect, or terminate telecommunications service to any customer~~subscriber~~ who disputes any ~~billing~~ charge pursuant to this section

or for nonpayment of ~~an~~such ~~unauthorized~~disputed charge; or pending a final determination by the Commission.

2. File an unfavorable credit report against a customer who has not paid charges that the customer has alleged were unauthorized.

DC. A billing telecommunications company and its billing agent shall hold only disputed charges in abeyance pending resolution of the dispute by the Commission. The ~~customer~~subscriber shall remain obligated to pay any charges that are not in dispute.~~E.~~— The telecommunications company responsible for placing any unauthorized charge on a customer's bill shall may implement normal termination procedures if the subscriber fails to pay all undisputed charges owed prior to and rendered during resolution of the dispute by the Commission.

1. Immediately cease billing upon notice from the customer or the billing provider that a charge for a product or service has not been authorized by the customer, and;

2. Maintain for at least two years a record for every disputed charge for a product or service on the customer's telephone bill. Each record shall contain:

a. Any affected telephone number or addresses;

b. The date the customer requested that the telecommunications company remove the unauthorized charge from the customer's bill;

c. The date the unauthorized charge was removed from the customer's bill, and;

d. The date that action was taken to refund or credit to the customer any money that the customer paid for the unauthorized charges.

R14-2-2007.2006.

Notice of CustomerSubscriber Rights

A. Each telecommunications company shall provide to its ~~customers~~subscribers a notice of the customer's subscriber rights regarding unauthorized charges crimming charges.

B. The customer notice of subscriber rights shall include the following:

1. The name, address and toll-free telephone number where a ~~customer~~subscriber can contact the telecommunications company;

2. A statement that ~~at the~~ telecommunications company is prohibited from adding may not add products and services to a ~~customer~~subscriber's telephone service without the ~~customer~~subscriber's authorization in accordance with these rules;

3. A statement that the telecommunications company is ~~required to return~~must restore the subscriber's service to its original provisions state if upon a customer determination that the subscriber has been crammed; and

4. A statement that ~~the~~ telecommunications company is must ~~require~~end to pay a subscriber any amount the subscriber has paid that company for unauthorized charges associated with returning the customer to their original provisions as promptly as reasonable business practices will permit, but no later than sixty business (60) days of a determination that the customer's request subscriber has been crammed;

5. A statement that the telecommunications company must refund to the customer any amount unsatisfied subscriber may call the customer paid for Commission to report charges the subscriber believes to be unauthorized charges as promptly as reasonable business practices will permit, but no later than 60 days of customer's request; and

6. A statement that a customer that has been crammed should call the Arizona Corporation Commission to report the unauthorized charge.

7. 6. The name, address, web site address and telephone number of the Arizona Corporation Commission must be provided.

C. Distribution, language and timing of the notice of subscriber rights:

1. A telecommunications company shall provide the notice described in this rule to new ~~customers~~subscribers at the time service is initiated, and upon customer request;

2. Each ~~Every~~ telecommunications company that publishes a telephone directory shall ~~print~~publish the notice described in this rule in the white pages of ~~its~~the next annual telephone directory;

3. Each ~~Every~~ telecommunications company shall display the notice of customer's rights described in this rule on the company's web site; and

4. The notice described in this rule of subscriber rights shall be in both English and Spanish as necessary to effectively inform the customer.

R14-2-2008-2007.

Informal Complaint Process

A. An informal cramming complaint may be submitted to the Commission Staff either in writing, telephonically or electronically transmitted. Information should via electronic transmission, and must include the following:

1. Complainant ~~The complainant's name, current address, and telephone number, and any existing e-mail if possible~~ address;

2. The names of the alleged telecommunications company allegedly providing the unauthorized telecommunications company product or service, the authorized telecommunications company and the executing telecommunications company's billing agent, if any;

3. The approximate date of the alleged unauthorized change (if known) charge;

4. A statement of the facts (including documentation) to that support the complainant's allegations;

5. A statement Copies of whether documents within the complainant has paid any disputed charges's possession or control that support the complainant's allegations; and;

6. A statement of whether the complainant has paid any disputed charges; and,

6-7. The specific relief sought.

B. Staff of the Arizona Corporation Commission Staff shall:

1. Assist the Complainant parties in resolving the informal cramming complaint;

2. Notify the telecommunications company allegedly providing the unauthorized product or service of the alleged unauthorized charge;

3. Request the telecommunications company provide Staff an initial response in five (5) business days; and

4. Request that the telecommunications company provide documentation of the customer's subscriber's new service or product request. Such information will be provided to Staff within 20 business days of the initial notification or a valid presumption will exist that an unauthorized charge occurred and Staff will make a finding that such an unauthorized charge did occur;

C. The telecommunications company shall provide Staff with any other additional information Staff requests concerning the alleged unauthorized charge within 10 twenty (20) business days of the telecommunications company's receipt of such Staff's request.

D. If the telecommunications company and the complaining party do not resolve the matter, the Staff will conduct a review of the complaint and related materials to determine if an unauthorized charge has occurred, which shall be completed within sixty (60) days of Staff's receipt of any informal cramming complaint.

E. Upon conclusion of its review, Staff will inform the customer and the telecommunications company render written summary of its findings and recommendation to all parties.

F. In the event either party is dissatisfied with the Staff resolution, either party may appeal the decision within 10 business days. Such an appeal would be heard by an appointed Utilities Division arbitrator. G. If the complainant Staff's written summary is unsatisfied with the resolution not binding on any of the complaint under this section parties. Either party will still have the complainant right may to file a formal complaint under ARS with the Commission pursuant to A.R.S. § 40-246.

R14-2-2009. — Compliance 2008.

Coordination and enforcement

A. A telecommunications company shall provide a copy of records related to a customer's request for services or products to Commission Staff upon request.

B. After notice and Commission deliberation, if the Commission finds that a telecommunications company is in violation of any section of this article, the Commission shall order the company to take corrective action as necessary, and the company may be subject to penalties of not more than \$7,500 for the first violation and not more than \$15,000 for each subsequent violation in this state. Furthermore, after notice and hearing, a telecommunications company in violation of these rules may be sanctioned by a prohibition on further solicitation of services and products for a specified period, or revocation of its certificate of convenience and necessity.

C. In determining whether to impose a civil penalty, the amount of the civil penalty, suspension of services, or whether revocation of a certificate of convenience and necessity is warranted, the Commission may consider any matter and evidence that it deems appropriate. Moreover, the penalties prescribed in this section are in addition to all other causes of action remedies and penalties provided under the laws of this state.

D. The Commission shall coordinate its enforcement measures efforts regarding the prosecution of fraudulent, misleading, deceptive, and anti-competitive business practices alleged cramming violations with the Arizona Attorney General in order to ensure consistent treatment of specific alleged violations.